

REMARKS

The Examiner's rejection under 35 U.S.C. 112 of claims 1 through 8 is respectfully traversed. The Examiner states that claims 2 through 6 and 8 are rejected as being dependent on rejected claims 1 and 7. Note that claim 3 is an independent claim and does not depend from claim 1. Also, claim 4 depends from claim 3. Therefore, claims 3 and 4 are not dependent from claim 1. Also, claim 5 is an independent claim. Claim 6 depends from claim 5. Therefore, claims 5 and 6 do not depend from claim 1. Therefore, the Examiner's rejection under 35 U.S.C. 112 with respect to claims 3, 4, 5 and 6 are believed to be inapplicable since these are independent claims not dependent from claim 1 or claim 7. Applicant has amended claim 1 and claim 7 to overcome the Examiner's rejection for indefiniteness in failing to distinctly claim the subject matter. Applicant has amended claim 1 and claim 7 to recite a specific range of the melt flow rate of the polymeric resin. Claims 2, 4 and 6 are cancelled.

The Examiner's rejection of claims 7 and 8 under 35 U.S.C. 102(e) as being anticipated by Ofosu, et al. is respectfully traversed.

Anticipation under 35 U.S.C. 102 requires that the disclosure in a single prior art reference teach each element of the claim under consideration. W.L. Gore & Assocs. v. Garlock, Inc., 721 F.2d 1540, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983). More importantly, the prior art reference must disclaim each element of the claimed invention "arranged as in the claim." Lindermann Maschinenfabrik GmbH v. American Hoist and Derek Co., 730 F.2d 1452, 221 U.S.P.Q. 481, 485 (Fed. Cir. 1984).

The Ofosu, et al. reference, U.S. Patent No. 6,268,302, cited by the Examiner does not meet this stringent test for anticipation. The following are excerpts from the '302 patent:

“A soft and strong nonwoven spunbond polyolefin fabric is provided which is a multi-layer laminate of a first web of high melt flow polymer fibers and a second web of low melt flow polymer fibers.” Column 1, lines 40 through 45.

“The web of low melt flow polymer fibers is produced from polyolefin polymer having a melt flow rate of below 50 grams/10 minutes at 230° C.” Column 1, lines 45 through 47.

“The web of high melt flow polymer fibers is produced from polyolefin polymer having a melt flow rate of at least 50 grams/10 minutes at 230° C....” Column 1, lines 47 through 50.

“The melt flow rate desired for the polyolefin to be used in this invention is at least 50 gms/10 min. at 230° C. and preferably in the range from about 50 grams/ 10 min. at 230° C. to about 150 gms/10 min. at 230° C.” Column 5, lines 38 through 44.

“While the fabric made from the high melt flow rate polymer fibers described above may be used in a laminate with only a low melt flow rate polymer web, it is preferred that the fabric may be laminated to other materials as well. Such materials include melt blown webs, films and other spunbond webs.” Column 7, lines 43 through 47.

All three examples in the '302 patent require the combination of one layer of a high melt flow rate and a second layer with a low melt flow rate. Example 1 states: “one of the layers was produced from a high melt flow rate polypropylene and the other from a conventional low melt flow rate polypropylene.” Column 9, lines 11 through 14. This exact statement is repeated in Example 2. Likewise, this statement is repeated in Example 3.

It is applicant's position that the Ofosu, et al. reference cited by the Examiner in rejecting claims 7 and 8 cannot anticipate the specific language of claim 7 and claim 8. In fact, the

requirement of always combining a low melt flow rate fabric with a high flow rate teaches away from applicant's invention because in applicant's invention, the use of an additional low melt flow rate fabric is not required. Applicant has amended claims 7 and 8 to require that the mass flow rate is between MFR 250 and 750 grams/10 minutes at 230° C. Applicant's claimed fabric also consists of one or more layers of the specific filaments recited.

The Examiner's rejection of claims 1, 2 and 3 through 6 under 35 U.S.C. 103(a) as being unpatentable over Lu (U.S. Patent No. 5,688,468) in view of Ofosu, et al. (U.S. Patent No. 6,268,302) is respectfully traversed. Claims 2, 4 and 6 are cancelled.

It is applicant's position that the combination of references cited by the Examiner will not allow one to arrive at the claimed invention in claims 1, 2 and 3 through 6. The applicant reiterates the statements from the Ofosu, et al. reference cited above to show the complete difference between applicant's claimed invention and the teachings in the Ofosu, et al. reference.

Combining the Lu reference with Ofosu, et al. does not produce applicant's claimed invention. Ofosu, et al. teaches specifically the use of two separate laminates required for one fabric and a preferred range of melt flow rate of between 50 MFR and 150 MFR for one of the laminates. This is clearly the range envisioned by Ofosu, et al. in terms of the melt flow rate. Applicant's amended claims recite a different fabric formed from a different method. Applicant uses one or more layers of filaments made of a specific polymer having a very high melt flow rate, with values that greatly exceed any teaching by Ofosu, et al. Furthermore, applicant's fabric is a single layer or multiple layers of the same material, i.e., each of the layers has a high melt flow rate polymer to produce the final fabric. It is clear that the references must suggest to one of

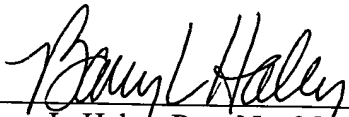
ordinary skill in the art the claimed invention. In this case, the reference of Ofosu, et al. teaches away from the claimed invention. In re Kotzab, 217 F.3d 1365, 55 U.S. P.Q.2d 1313 (Fed. Cir. 20000). Basically, the Court held that there is no suggestion to modify prior art that used a plurality of devices to arrive at an invention that only uses one device. In this case, applicant uses a high melt flow rate polymer not a combination of high and low flow rate polymers to make a fabric. The amended claims 1, 3, 5, 7 and 8 clearly distinguish applicant's invention from the prior art. Claims 2, 4 and 6 are cancelled.

The claims 1, 3, 5, 7 and 8 have been amended to eliminate any reference to "preferred" or "preferably." Also, the term consisting of has been used to limit applicant's invention to the high melt flow rate materials.

It is believed that claims 1, 3, 5, 7 and 8 are now allowable over the art of record.

Any additional charges, including Extensions of Time, please bill our Deposit Account No. 13-1130.

Respectfully submitted,



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